

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

SCOTT ALLEN NEWTON (2)

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Case No. 4:06cr3
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 28, 2011, and April 1, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Randall Blake.

On September 11, 2006, Defendant was sentenced by the Honorable Richard A. Schell to nine (9) months' custody followed by three (3) years of supervised release for the offense of False Claims. On August 21, 2007, Defendant completed his period of imprisonment and began service of his supervised term. On February 25, 2010, Defendant's term of supervised release was revoked and Defendant was sentenced to one day imprisonment followed by an additional thirty-five (35) months of supervised release. On March 19, 2010, Defendant began service of his second term of supervised term

On November 5, 2010, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following standard conditions: (1) the defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; and (2) the defendant shall notify the probation officer within seventy-two hours of being

arrested or questioned by a law enforcement officer. The petition alleges violation of the following special conditions: (1) the defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer; and (2) the defendant shall pay restitution in the amount of \$6,539.60.

Prior to the Government putting on its case, Defendant entered a plea of true to violation of standard condition two and to all of the special condition violations. Defendant entered a plea of not true to violation of standard condition one.

The Government offered the testimony of U.S. Probation Officer Elizabeth Knight. She testified that Defendant failed to report to the U.S. Probation Office for the months of July, August, September, and October 2010, and at the time she wrote the Petition, Defendant's whereabouts were unknown. Defendant offered letters from his family.

The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months with no supervised release to follow. It is also recommended that Defendant be housed in the FCI Safford Unit, if eligible, and if not eligible that he be placed in FCI Tucson.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 1st day of April, 2011.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE